1947. **File No.** Dist. Police II 47

Legal **DEPARTMENT**

B **BRANCH**

K

Subject:—

Rules and Notifications under the Bombay District Police Act, 1890.

17

File No. Dist. Police II /47

Std. Sectt. Slip 24 B a.

175-B.

C O N T E N T S.

Legal Department File No. Distt. Police II/47

Sr. No.	Compilation No.	Subject	Pages.
		The Bombay District Police Act, 1890.	
1	U.R.to H.D.,No. 827/dt.23-1-47	Empowering an Addl. District Supdt. of Police with the powers of the D.S.P. Opinion regarding.---	1-2
2	U.R.toH.D.(spl) No. 177-Confl. dt. 21-4-47	Sec. 46 -- Appeal against the Order of the District Magistrate under---	3-4
3	G.C.F.D.(Poll)No. 176-5(Poll) 3-1-47	Rules for Licensing and controlling theatres etc.-----	5-6 (not copied)
4	U.R.toH.D.(spl.)No. 4762dt.9-5-47	Sec. 46-- extension of a person opinion for	7-8
5	G.H.H.D.No.3024/5 dt. 3-9-47	Sec. 41--- Notification under---	9-10
6	U.R.toH.D.(spl)No. 9377/dt.22-9-47	Sec. 46--- Order passed by a D.M. Whether it can be called in question	11-12
7	G.R.H.D.(Poll)No. 324/42-Poll dt.3-11-47	Rules for controlling places of Public entertainments ----	13-14(not copied
8	U.R.toH.D.No.13330 dt. 23-12-47	Sec. 61-A --- Notification under	15-18

11/5

K.S.R.

11/5.

PEN. 10/4
5C.

Office of the R.L.A.

Under the proposed amendment of section 6(1) paragraph 2, (vide R.L.A.'s No. 8801, dated the 6th December 1946), an Additional District Superintendent of Police, can be empowered by general or special order of the Provincial Government to exercise the powers of the District Superintendent of Police to appoint additional police-officers under section 22 A.

Id/-D.V.V.

Remembrancer of Legal A[illegible]

Id/-A.B.D.
22-1

U.R. to H.D.,No. 827, dated the 23rd January 1947.

PSM. 10/5
4C

Office of the R.L.A.

Sub-section (3) of section 46A of the Bombay District Police Act, 1890(Bom. IV of1890), provides that any person agrieved by an order made by the Magistrate under sub-section(1),(3) (4) of section 46 may appeal to the Provincial Government within thirty days from the date of such order. No provision is made either as regards the kinds of orders which the Provincial Government may pass on such appeals, or as regards the manner in which orders in appeal may be communicated to the persons concerned. No particular form is necessary. The Home Department may therefore communicate to the appellants and their pleaders the decision of Government in the usual way e.g. by a letter signed in compliance with rule 13 of the rules of business.

Id/-P.M.L.
21-4

Remembrancer of Legal Affairs.

U.R. to H.D.,No. 177-Confl. dated the 21st April 1947

PSM. 10/5
4C

Office of the R.L.A.

Having regard to the provisions of sub-section (3) of section 46 of the Bombay District Police Act, 1890(Bom. IV of 1890), the order of the sub-Divisional Magistrate, First Class, Karwar Division, dated 27th March 1947, externing Mr. N,.L. Upadh aya to Udipi in the Madras Province by a particular route and within the stated time, calls for the following remarks, namely:-

(a) Sub-section (3) of the said section 46 inter alia provides that where it appears to any sub-divisional Magistrate that movements or acts of any person in the district are causing or calculated to cause alarm, danger or harm to person or property or that there are reasonable grounds for believing that such person is engaged or is about to be engaged inthe commission of certain offences or in the abetment thereof and when in his opinio witnesses are not willing to come forward to give evidence in public against such person for certain reasons he may by an order in writing duly served on him or by other means, direct such person to remove himself outside the Province or to such place within the Province and by such route and within such time as he may prescribe. The words "where it appears to .....any sub-divisional Magistrate" and the words "or that there are reasonable grounds for believing" are clear enough to suggest that it must appear to the sub-Divisional Magistrate, First Class, Karwar Division that the movements or acts of Mr. N.L.Upadhyaya in the district are causing or calculated to cause alarm etc. or that there are reasonable grounds for believing that Mr. N.L.Upadhyaya is engaged or about to be engaged in the commission of certain offences or in the abetment thereof. The expression "Whereas it has been made to appear to me" in the order at page 3 is, therefore, not in order. The view taken in paragraph 3(i) of Home Department note dated 12th April 1947 to the same effect is correct.

(b) As stated above, under the provisions of sub-section (3) of section 46, any sub-divisional Magistrate may by an order in writing duly served on a person etc. direct him to remove himself outisde the Province or to such place within the Province and by such route and within such time as he may prescribes.

It is, therefore, open to the Sub-Divisional Magistrate, First Class, Karwar Division, to direct thereunder Mr. B.L. Upadhyaya to remove himself outside the Province of Bombay, but not to a particular place outside the Bombay Province, by the route and within the time prescribed by him in his orders dated 27the March 1947. Therefore in so far as it directs Mr. N.L.Upadhyaya to remove himself outside the Bombay province to Udipi in the Madras ~~Pink~~ Province, it is irregular. ~~Point~~ (c) The words" any person in the district" in sub-section (3) of section 46 do not refer only to persons residing in the district. They refer to persons who may be in the district for the time being. The view taken to this effect in paragraph 4 of Home Department note dated 12th April 1947 at page 8 is correct.

Id/-P.M.L.
8-5

Remembrancer of Legal Affairs.

U.R.to H.D.(Spl.), No. 4762, dated the 9th May 1947.

PSM.10/5
S4C

No. 3024/5
Home Department,

Bombay Castle, 3rd September 1947

NOTIFICATION:

The Government of Bombay is pleased to extend the provisions of section 41 of the Bombay District Police Act, 1890(Bombay IV of 1890), to the Karwar Town.

By order of the Governor of Bombay,

Sd/- V.T.DEHEJIA

Secretary to the Government of Bombay,
Home Department.

No.3024/5
Home Department,
Bombay Castle, 3rd September 1947.

Copies forwarded with compliments for information to:-

The Commissioner, Southern Division (with reference to his endorsement No. P.O.L.S.R. 355, dated the 12th August 1947).

The District Magistrate Kanara, (with referene to his letter No. Gen.8623, dated the 4th August 1947).

The District Superintendent of Police, Kanara,

The Remembrancer of Legal Affairs,

By order of the Governor of Bombay,

Sd/- Illegiable

for Secretary to the Government of Bombay,
Home Department.

PSM. XXI 10/5
4 C

Office of the R.L.A.

Point I. Section 46A(4) of the Bombay District Police Act, 1890, inter alia provides that an order passed by the Magistrate under sub-section (1), (3) or (4) of section 46 shall not be called in question in any court except on the ground that there was no material before the Magistrate upon which he could have based his order or on the ground that the Magistrate was not of the opinion that witnesses were unwilling to come forward to give evidence in public against the person in respect of whom an order was made under section 46(3). Thus these are the only grounds on which an order of a Magistrate under 46(3) can be called in question. The order therefore cannot be called in question on the ground that para. 1 of the preamble does not confirm to the language of section 46(3) of the said Act. The order will therefore not be vitiated on account of the expression "whereas it has been made to appear to me" in para. 1 of the preamble of the order. In his opinion No. 476-2, dated the 9th May 1947 the R.L.A. has not stated that the order is vitiated on that account. The expression is not in order and should not be followed in future orders soas to leave room for the complaint that the Magistrate had not material before him upon which he could base the order.

Point 2. As regards the second point, the view expressed by Secretary, Home Department is correct.

Id/-P.M.L.
19-9

Remembrancer of Legal Affairs.

U.R. to H.D.,(Special), No. 9377, dated the 22nd September 1947.

PSM. 10-5
4C

Office of the R.L.A.

In view of the Commissioner's statement that section 61-A of the Bombay District Police Act, 1890 has already been brought ~~up~~ into operation in certain villages, the draft notification is suitably revised and sent herewith.

Id/- P.M.L.
23/12

Remembrancer of Legal Affairs.

U.R. to H.D.,No. 13330, dated the 23rd December 1947.

PSM. 10/5
4C

NOTIFICATION.
Home Department,

Bombay Castle, December 1947.

Bombay District Police Act, 1890(IV of 1890).

No. 2491/5:- Whereas it appears to the Government of Bombay from the report of the District Magistrate, Thana, that in the area of the Thana District described in the Schedule hereto annexed cattle are habitually allowed to stray and that such cattle trespass on land and damage crops or other produce thereon.

Now, therefore, in exercise of the powers conferred by section 61-A of the Bombay District Police Act, 1890(Bom.IV of 1890), the Government of Bombay is pleased to direct that the provisions of the said section shall have operation in the said area of the said District in respect of all cattle other than sheep and goats, namely:-

Schedule.

The area of the Thana District in which section 61-A of the Bombay District Police Act, 1890, has not so far been brought into operation.

By order of the Governor of Bombay,

Secretary to Government.

PSM. 10/5
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